

Serial No. 10/064,361
Filed: 07/05/2002
Page 5 of 6

Examiner: Michelle A. Lazor
Group Art Unit: 1734

REMARKS

By the present amendment, claims 3 and 4 have been amended for purposes of clarity to insert the step of "printing" which was inadvertently omitted from the claims as filed.

In the Office Action, the Examiner has rejected claims 1 and 4 under 35 U.S.C. § 103(a) as being unpatentable over the Mitchell, Jr. U.S. Patent No. 5,738,748. This rejection is respectfully traversed.

The Mitchell, Jr. '748 patent discloses a thermal transfer printable label and a method for making the same. The thermal transfer label has a feed stock layer 12 that is coated on a backside 28 with a pressure sensitive adhesive 30 and is laminated on a front side to a thermal transfer ribbon 16 that has an ink layer 18 thereon. A layer of release coating 34 is applied to the side 38 of the thermal transfer ribbon 16. The thermal transfer ribbon can be laminated to a feed stock 12 through a fugitive adhesive 40 at the side edges of the thermal transfer ribbon 16. The fugitive adhesive can be replaced by a "static cling."

The Examiner has represented that the Mitchell, Jr. '748 reference discloses the steps of printing product indicia on the label web upper surface, then applying a static cling layer to the printed upper surface of the label and die cutting the label web and static cling layer into discreet assemblies. The Examiner is believed to be in error in his interpretation of the Mitchell, Jr. '748 patent. The Mitchell, Jr. '748 patent does not disclose printing product indicia on the label web upper surface. Nor does it disclose applying a static cling layer to the printed upper surface of the label web. Although Mitchell, Jr. '748 does disclose printing on the label web upper surface, there is no disclosure in printing *product indicia* on the label web upper surface. Further, although the static cling strips can be used to adhesively secure a thermal plastic ribbon to a feed stock 12, the static cling strips do not meet the limitation of a static cling *layer* that is applied *to the printed upper surface of the label web*. Further, die cutting of the label web of Mitchell, Jr. '748 does not include die cutting of a static cling layer. The fugitive adhesive strips are believed to be salvage and would not appear in the final label assemblies.

Thus, claim 1 of the present application distinguishes over the Mitchell, Jr. '748 patent in calling for the steps of printing product indicia onto the label web upper surface, applying a static

Serial No. 10/064,361
Filed: 07/05/2002
Page 6 of 6

Examiner: Michelle A. Lazor
Group Art Unit: 1734

cling layer to the printed upper surface of the label web and die cutting the label web and the static cling layer into discreet label assemblies. Claim 4 further distinguishes over the Mitchell, Jr. '748 patent in calling for the step of printing data entry indicia on the static cling layer in registry with the product indicia on the printed upper surface of the label web. This step is not disclosed in the Mitchell, Jr. '748 patent.

It is noted with appreciation that claims 5-12 are allowed and that claims 2 and 3 have been objected to as being dependent from a rejected claim. It is believed that the claims are all in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

Robin R. Preston and John L. Jonkman

Dated: 1.02.04

By: 

John E. McGarry, Reg. No. 22,360
McGARRY BAIR PC
171 Monroe Avenue, NW, Suite 600
Grand Rapids, Michigan 49503
616-742-3500

G0113791